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HAND DELIVERED

March 12, 2019

Honorable Steve Barnett
Secretary of State
500 E. Capitol
Pierre, SD 57501

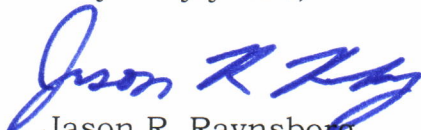
RE: **Attorney General's Statement for Constitutional Amendment
(requiring physical or monetary damage)**

Dear Secretary Barnett,

This Office received a proposed initiated constitutional amendment that the sponsor will seek to place on the November 2020 ballot. It is a revised version of one that the sponsor submitted last year, for which this Office previously filed a title and explanation. Enclosed is a copy of the revised initiated constitutional amendment, in final form, that the sponsor submitted. In accordance with SDCL 12-13-25.1, I hereby file the enclosed Attorney General's Statement with respect to this amendment.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor of the proposed amendment.

Very truly yours,


Jason R. Ravensborg
ATTORNEY GENERAL

JRR/PA/lde
Enc.

cc/enc.: Levi Breyfogle

Filed this 12th day ofMarch 2019


STEVE BARNETT
SECRETARY OF STATE

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An amendment to the South Dakota Constitution requiring physical or monetary damage in order for conduct to be considered a violation of the law.

Explanation:

This amendment significantly re-defines what is considered a violation of state or local law. Under the amendment, conduct is a violation only if a person or person's property is physically or monetarily damaged or stolen. Damages must have already occurred and be quantifiable. If a victim does not file a charge, there can be no prosecution. If the victim is incapable of bringing the charge, another individual may do so, but only if the victim does not object.

The amendment would take effect July 1, 2021. At that time, victims must be notified in all cases where there are pending charges, uncompleted sentences, or unpaid fines. If a victim does not file a charge as described in this amendment, then the case, sentence, or fine must be dismissed.

The amendment prohibits the use of state and local funds, personnel, or property to implement or enforce any federal law, executive order, rule, or regulation that violates this amendment.

Some of the amendment's provisions are unclear and will require judicial interpretation and clarification. Any state and local laws that do not meet the amendment's requirements would no longer be valid. A substantial re-write of state and local criminal laws will be necessary.

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Victimless Crime

§ 30. In order for a violation of the law to have been committed, each of the following shall occur:

A charge of a violation may only be filed by an individual victim whose person or property have been physically or monetarily damaged or stolen by the defendant. If the victim is incapable of filing a charge of a violation, another individual may, but only if the victim does not object;

and

The damages must have already occurred and be quantifiable.

§ 31. Each known victim in any pending case on July 1, 2021, in the law enforcement, judicial, or correctional systems shall be notified and the victim may file a charge of a violation. If no victim files a charge of a violation, the case, sentence, or outstanding fine shall be dropped by Sept 1, 2021. If a charge is filed, the charge shall be initially reviewed within 30 days to verify the person filing the charge was a probable victim of a willful, direct, physical action of the defendant. No restitution shall be paid for time or fines already paid by any person currently or previously incarcerated or for fines paid if a charge of a violation is dropped pursuant to this section.

§ 32. No public funds of this state, or any political subdivision of this state, may be expended for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation regulating any case that is in violation of this amendment. No personnel or property of this state, or any political subdivision of this state, may be utilized for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that is in violation of this amendment.